

REMARKS

Applicant's invention relates to a mobile terminal that communicates with a conventional circuit-switched network (referred to in the specification and claims as a multi-service network) and a packet data network (referred to in the specification as a best efforts network). Thus, the mobile terminal of the present invention is capable of both conventional voice and high speed packet data services. The application includes 70 claims, of which claims 1, 10, 25, 35, 48, and 64 are independent claims.

The Examiner rejected each of the independent claims under 35 U.S.C. § 102 (b) as being anticipated by Haartsen. Haartsen discloses a mobile terminal that can operate in a public wireless communication network (hereafter "public network") or a private wireless communication network (hereafter "private network"). Both the public network and the private network are conventional circuit-switched voice communication networks. In Haartsen, the mobile terminal can de-register with the public network when it is within the range of the private network so that the voice calls are preferentially directed through the private network. When the mobile terminal in Haartsen de-registers from the public network, incoming calls are redirected through the private network to the mobile terminal using call forwarding. Thus, the de-registration in Haartsen is done for the purpose of redirecting voice communications through a preferred network.

The Haartsen patent does not anticipate the independent claims for several reasons. First, Haartsen fails to disclose a best efforts network. This point was raised by Applicant in response to the Examiner's first office action. In reply, the Examiner recites the mantra that terms are given their broadest reasonable construction and summarily dismisses Applicant's argument without offering what the Examiner considers to be the proper construction of the term "best effort network." That is, the Examiner suggests that the network in Haartsen is a "best effort network" without ever defining the term.

The term "best effort network" is not an invented term and has a well-understood meaning in the field of networking and telecommunications. The term "best effort" describes a type of service offered in a packet-switched network. "Best effort" means that the network offers to deliver packets but with no assurance of delivery and no guarantees regarding throughput, transit time or packet latency. See, Newton's Telecom Dictionary, page 106 (defining the term "best effort" to mean "[a] term for a Quality of Service (QoS) class with no specified parameters and with no assurances that the traffic will be delivered across the network to the target device."). A quick search of issued patents illustrates the ordinary meaning of the term "best effort" when used to describe a network. U.S. Pat. No. 6,661,806, states:

The Internet is a communications network which is becoming widely available. The Internet provides a "**best effort**" bearer service. That is, the user receives the best service available at the time he requests it, but no commitments are given to the user in terms of available bandwidth, transit delay, or packet loss. The Internet is particularly useful in data communications applications, but is of limited use for telecommunications applications which require guaranteed bandwidth availability, and specify maximum values for the transit delay and loss of data. The Internet cannot usually guarantee the required quality of service.

U.S. Pat. No. 6,608,832 describes best efforts service as follows:

It is important to be able to provide a certain particular communications service with a requested quality. For example, certain multimedia applications or even a simple voice phone call need guarantees about accuracy, dependability, and speed of transmission. In **packet-switched** communications, "**best efforts**" are usually employed, and no special attention is paid to delay or throughput guarantees.

A "best effort" service is the antithesis of circuit-switched voice services, in which a guaranteed quality is required. The contrast between circuit-switched communications and "best effort" packet-switched communications is made in U.S. Pat. No. 6,347,091:

The Global System for *Mobile* communications (GSM) offers two categories of services including circuit-switched services via a *Mobile Switching Center* (MSC) node and *packet-switched* services via a General Packet Radio Service (GPRS) node. For circuit-switched, guaranteed service, e.g., High Speed Circuit-Switched Data (HSCSD), statically-dedicated traffic channels are employed. For **packet-based, best effort** service, another set of packet data channels are allocated from a pool of resources on a per packet basis using a media access control protocol or scheduling policy.

Circuit-switched services are characterized by the fact that an end-to-end connection or circuit is established between the parties for the duration of a call. Circuit-switched networks do not use "best efforts." A "best-effort" packet-switched service, in contrast is connectionless. That is, there is no dedicated communication link between the parties and each packet is separately routed through the network. The best example of a packet-switched is the Internet.

The references cited above illustrate the common meaning of the term "best effort" in the field of networking. The Examiner is required to give claim terms their ordinary meaning unless the patent specification clearly indicates that a different meaning was intended. The Haartsen patent does not disclose a best effort network as that term is ordinarily used. In fact, Haartsen disclose conventional circuit-switched networks (i.e., GSM networks), which are the antithesis of best-effort, packet-switched networks. The Examiner does not cite any authority for deviating from the ordinary meaning of the term.

The Examiner's analysis is deficient in failing to state what meaning the Examiner gives to the term "best effort network." Although the Examiner states that terms are given their broadest reasonable construction, the Examiner does not explain how he construes the term. Importantly, the Examiner offers no citations supporting his unstated definition of "best effort." Claim construction is an essential step in a patentability analysis. Applicant requests that the Examiner state for the record the meaning he ascribes to the term "best effort" network" and that he provide citations to references supporting the proffered definition. If the Examiner is unable to articulate his construction of the claim or to provide supporting citations, then the rejection of the claims should be withdrawn.

There is a second reason why Haartsen does not anticipate the claims. Each of the independent claims recites a do not disturb function that triggers deregistration from the multi-service network. As explained in the patent specification, the user can activate the do not disturb function when he/she is involved in a packet data call. The mobile station deregisters

from the multi-service network responsive to the activation of the do not disturb function. Thus, when the do not disturb function is activated, the mobile station is unable to receive voice calls.

Haartsen does not disclose a do not disturb function as that term is used. The term "do not disturb" as used in the claim implies that the network will not attempt to contact the mobile station when the do not disturb function is activated. That is, the do not disturb function in the claimed invention prevents the network from contacting the mobile station when the mobile station is engaged in a packet-data call.

In Haartsen, the user "deregisters" for voice or SMS services when it is in range of a private network so that incoming calls for the mobile station will be directed through a private network. That is, the purpose of deregistration in Haartsen is not to block incoming calls, but to redirect them to a different network. The user does not "deregister" from the network in the same sense as Applicant. The network is still aware of the mobile station and can forward calls for the mobile station to the private network. Thus, Haartsen does not provide a function that allows the user to block incoming calls.

For the reasons discussed above, it is believed that the present application is in condition for allowance and notice to such effect is respectfully requested.

Respectfully submitted;

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